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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6079/2016

UNION OF INDIA & ANR Petitioners
Through Mr. Arun Bhardwaj, Advocate

versus

ANAND SINGH Respondent
Through Mr. B. K. Berera, Advocate

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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02.12.2016

1. The Union of India and Director of Ministry and Finance has filed the present writ petition impugning the order dated 18.04.2016 whereby the review application filed by the respondent herein was allowed and the following order and directions were passed in OA No. 2337/2014:-

“5. On going through the facts of this case and the provisions of the MACP Scheme, we find that there is considerable merit in the submissions of the learned counsel for the applicant. The applicant has relied upon Annexure-I of the MACP Scheme in support of his claim wherein as illustrations cases of employees working in pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500 have been discussed. IT has been provided that since these pay scales have been merged by the VIth CPC, the promotion/upgradation granted in these scales prior to 01.01.2006 have to be ignored.

5.1 If provisions of the MACP Scheme are applied in the instant cases, then it would follow that the applicant, who had joined service on 18.09.1965, had got only one promotion as

Research Investigator Grade-I in the year 1984. Consequently, he became entitled to second financial upgradation under the MACP Scheme w.e.f. 01.01.2006.

5.2 In view of the above, we allow this O.A. The respondents are directed to consider granting second financial upgradation to the applicant under MACP Scheme w.e.f. 01.01.2006. If found eligible, he shall also be entitled to pay and pension revision and the monetary benefits arising out of the same. These benefits shall be extended to him within a period of eight weeks from the date of receipt of a certified copy of this order. No costs.”

2. The aforesaid quotation refers to Modified Assured Career Progression Scheme (MACP Scheme) which was introduced vide Office Memorandum dated 19.05.2009 with effect from 01.09.2008.
3. The petitioner herein had retired from service on 28.02.2007. It is obvious that the MACP Scheme would not be applicable to him because he has already demitted the office.
4. The MACP Scheme had replaced the Assured Career Progression Scheme which was introduced with effect from 09.08.1999 and was operative and applicable on 28.02.2007, i.e. the date on which the respondent had retired.
5. We reject the contention of the respondent who has relied on paragraph 5 of the MACP Scheme. The said aspect is not required to be examined for the respondent had retired prior to the MACP Scheme being enforced. In the aforesaid circumstances, the impugned order granting and directing financial upgradation under the MACP Scheme cannot be sustained.
6. Learned counsel for the respondent has raised the issue regarding

fixation of pay under the Central Civil Services (Revised Pay) Rules, 2008 (2008 Rules) The contention of the respondent, that he was wrongly denied benefit of the merger of scales under the 2008 Pay Rules, is not correct.

7. At the time of retirement the petitioner was working at the post of Junior Analyst in pre-revised scale of Rs.6500-10500. As per 2008 Rules scales of Rs.5000-8000, Rs.5500-9000 and 6500-10500 were merged in Pay Band II (Rs.9300-34800) with Grade Pay of Rs.4200. Pursuant to Office Memorandum being F. No. 1/1/2008-IC dated 13.11.2009, those in the pre-revised scale of Rs.6500-10500 who were earlier given Grade Pay of Rs.4200 were given Grade Pay of Rs.4600. Benefit of this OM has been granted to the respondent with effect from 01.01.2006. Thus, the contention raised by the respondent is fallacious.

8. To satisfy ourselves, that no injustice is done, we have examined the respondent's service profile. The respondent was initially appointed as a Computer Analyst on 18.09.1965 in the scale of Rs.110-200 and thereafter, granted two promotions as Research Investigator Grade II and Research Investigator Grade I on 01.01.1979 and 14.03.1984 in the scales of Rs.425-700 and Rs.550-900 respectively. The respondent was then working in the Department of Agriculture. On 16.09.1987, the petitioner joined the Department of Expenditure, Ministry of Finance where he was absorbed as Technical Assistant on 07.01.1992. He was granted first financial upgradation under the ACP scheme in the scale of Rs.6500-10500 and was subsequently promoted to a Junior Analyst in the pay scale of Rs.6500-10500. He had retired from the said post.

9. It is abundantly clear from the aforesaid that the petitioner had certainly got two promotions/financial upgradations during his service

career. The ACP scheme had envisaged two financial upgradations/promotions and not more.

10. In view of the above said discussion, we would allow the writ petition and set aside the impugned order dated 18.04.2016 passed in RA No.307/2015, MA No. 4009/2015 and OA No. 2387/2014.

11. The OA No. 2387/2014 will be treated as dismissed.

12. No costs.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

DECEMBER 02, 2016

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